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Property and Casualty Rates and Rules Filings

GENERAL INFORMATION

State Auditor/Commissioner:	Monica Lindeen
Regulatory Agency:	Montana State Auditor's Office, Montana Insurance Division
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IMPORTANT CONTACTS

Role	Contact	Phone	Fax	E-mail Address
Deputy Insurance Commissioner	Robert Moon	(406) 444-2040	(406) 444-3497	rmoon@mt.gov
Property and Casualty Actuary (rates & rules)	Mari Kindberg	(406) 444-5220	(406) 444-3497	mkindberg@mt.gov
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Forms Bureau Chief	Rosann Grandy	(406) 444-3443	(406) 444-3497	rgrandy@mt.gov

FILING LAW for other than Workers Compensation

- **All Lines except Reinsurance, Certain Aviation-Related Rates, Ocean Marine and Surplus Lines**

FILE AND USE. Filing must be submitted to the insurance division on or before the effective date. *Statutory Reference: Montana Code Annotated 33-16-203*

- **Reinsurance, Certain Aviation-Related Rates, Ocean Marine and Surplus Lines**
NO FILING REQUIREMENTS. Rates for these lines are not required to be filed.

Statutory Reference: Montana Code Annotated 33-16-103

- **Crop-Hail Insurance**

Crop-hail rate filings must be filed yearly and must be received by the office on or before March 15.



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- **Credit Scoring or other Scoring Processes** Scoring models must be filed. *Statutory Reference: Montana Code Annotated 33-18-609* The Montana Credit Scoring Checklist must be completed and can be found at <http://www.csi.mt.gov/forms/Exams/Miscellaneous/credithistorychecklist.pdf>
- **Uninsured Motorists(UM), Underinsured Motorists (UIM) and Medical Payments (Med-Pay) auto rates** Must be filed and certified. *Statutory Reference: Montana Code Annotated 33-23-203* The Montana UM, UIM and Med-Pay Checklist must be completed and can be found at <http://www.csi.mt.gov/forms/Exams/Miscellaneous/Stacking.pdf>

WHAT TO FILE

- 2 copies of transmittal or cover letter describing the nature of the filing along with a self addressed stamped return envelope. One complete copy of the rates and supporting data.
- Filing fees are not required.
- Rates and/or rating rules filings and forms filings should be submitted separately. When forms and rates are submitted in the same filing, response to the submission from the insurance division is necessarily slower.
- The filing should include full details on the pricing structure being filed, the pricing structure being replaced, and the percentage change which results.
- When adopting advisory/rating organization pricing components filed by an organization, the company should clearly identify the organization submission (the organization's filing number, date submitted, etc.)
- The submission should include supporting data sufficient to substantiate independent pricing components.
- The company should send another self addressed, stamped return envelope when responding to the insurance division's inquiries.
- If an advisory/rating organization treats the classification as "A"-rated, or as "refer to company", the company needs to file a set of rates or make individual risk submissions. Individual rating is only allowed for risks with \$100,000 or more in premium.

COMMON AREAS OF NON-COMPLIANCE

The most common areas of concern or non-compliance, which are not related to a specific line of insurance, are discussed below. Resolution usually requires a written response from the company.



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1. Lack of supporting data. It is not sufficient to file only the rates the company intends to use. Rates must be filed together with supporting data sufficient to substantiate the filing.
2. Inadequate supporting data. It is the company's burden to demonstrate that the intended pricing structure is not inadequate, excessive, nor unfairly discriminatory. The insurance division does not provide specific guidelines on what constitutes "supporting data sufficient to substantiate" a filing. One effective method is to simply explain and show in the filing how the rates were determined. Another good "rule of thumb" is to assume the company is a policyholder concerned about a specific pricing component, or change to that component, which affected the company's policy premium. After having reviewed the supporting data in the filing, would the company be content that the company were being treated fairly? Such supporting data can be in the form of rate level indications, other actuarial or statistical analyses, rate comparisons with other companies (preferably three or more), product development studies, reinsurer derivations, etc. The sole rationale of underwriting judgment will not suffice. "Raw" statewide or countrywide calendar year data are usually inadequate in support of classification or territory rate changes, relativity changes, etc.
3. Inadequately completed or no loss cost adoption forms. The filing must include completed NAIC or NCCI loss cost adoption forms separately for each company and for each loss cost multiplier. The supporting data requirement does apply. Loss cost adoption filings must include an expense exhibit showing at least the latest three years of expense ratios. Filings must also include statistical justification for any loss cost modifications or deviations. The sole rationale of underwriting judgment for loss cost modifications is not sufficient.
4. Inappropriate use of or reliance on national statistics as the primary or complementary database in ratemaking. Use of data from such other states could result in excessive or inadequate rates in the state. Companies should use ratemaking methods and/or databases which do not result in premium penalties to insureds in the state based on incompatible judicial climates in other states.
5. Schedule of rates not filed. A schedule of rates must be filed with the Department or individual risk submissions must be submitted. Individual risk submissions usually occur in the following situations:
 - a. The intended individual risk premium is less than can be achieved by applying the company's filed pricing structure. In such cases, the company should explain in detail why the risk is perceived to be so exceptional.
 - b. The intended individual risk premium is greater than can be achieved by applying the company's filed pricing structure. In such cases, the company should provide the prospective insured's signed statement that the prospective insured:
 - i. has searched for insurance and has been unable to locate acceptable coverage;



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- ii. is aware that the intended premium exceeds what the company could charge based on its filed pricing structure; and
 - c. is willing to pay the additional premium in order to obtain coverage.
 - d. The company has no pricing structure on file for the subject line of insurance, and has no intention of entering the line, but has one risk it wishes to write on an "accommodation" basis. In this case, the company should provide a premium comparison with a few other companies that write that line of insurance, to demonstrate that the premium it wishes to charge is reasonable in relation to the "market rate level."
6. Non-compliance with the non-gender law or marital status rule. Rates cannot vary based upon gender or marital status.
7. Schedule rating plans with a maximum modification greater than +/- 40%.
8. Premiums are fully earned up front. Premiums must be subject to cancellation and some sort of earnings schedule.
9. Expense adjustment plans that allow for commission adjustment. This is considered unfairly discriminatory and not allowed.
10. Risk purchasing group not registered.
11. The ELR's for use with ISO Experience and Schedule Rating Plan are incorrect.
12. Violations of premium financing laws by companies that charge interest. Only companies "which provide installment premium payments programs at no interest to policyholders" are exempted from the premium finance company licensing requirement.
13. Service, inspection or other fees not considered premium.
- 14) The Montana Use of Credit Information in Personal Insurance Act requires that carriers file their insurance scoring model and their treatment of no hits and no scores insureds with the Department. In addition, the Act prohibits the use of a number of different variables in the insurance scoring models. For rates, rules rates/rules filings where credit history is utilized in rating and/or underwriting risks, the Montana credit history checklist must be completed and can be found at the following website:
<http://www.csi.mt.gov/other/credithistorychecklist.pdf>
- 15) For rates, rules rates/rules private passenger automobile and commercial automobile filings where uninsured motorists, underinsured motorists rates, rules, rates/rules or premiums are included in the submission, the Montana uninsured motorists, underinsured motorists and medical payment checklist must be completed and can be found at the



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following website:

[http://www.csi.mt.gov/forms/Exams/Miscellaneous/Stacking%20advisory%20final%20\(4\).pdf](http://www.csi.mt.gov/forms/Exams/Miscellaneous/Stacking%20advisory%20final%20(4).pdf)

COMMON AREAS OF NON-COMPLIANCE FOR PRIVATE PASSENGER AUTO

1. Companies are prohibited from using driving records, which are 3 years old or older. Pricing structures which contemplate the use of adverse information contained in a driving record older than 3 years are not permitted.
2. Companies cannot unfairly discriminate against previously uninsured risks per 6.6.3301-6.6.3304 ARM.
3. Sections 61-6-301-303, MCA, only allows for family members to be excluded on auto policies.
4. An insurer cannot negatively treat an insured in pricing due to a not at fault accident.
5. Unfair discrimination where the companies' "ineligible risks lists" violate state laws regarding race, color, creed, religion, national origin, mental or physical impairment.
6. Non-compliance with Montana's Requirement for rate reduction for insureds age 55 and older or members of the Montana National Guard. Upon completion of a highway traffic safety program, a discount must be applied for up to two years for an insured who has completed an approved safety course.

WHAT TO FILE for ADVISORY/RATING ORGANIZATION FILINGS

Other than Workers Compensation

- All filings by company which refer to a reference filing of prospective loss costs made by an advisory/rating organization shall include, in the order listed, the following documents *Reference Filing Adoption Form* and *Summary of Supporting Information*.
- Any participating company of an advisory/rating organization may continue to use all rates and deviations in effect until such rates are disapproved or until the company makes its own filing to change its rates, either by making an independent filing or by filing a reference filing adopting the advisory/rating organization's prospective loss costs, or the company's modification of them.



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- For the company's initial adoption of an advisory/ rating organization's reference filing or if a company has NOT elected to have its loss cost adjustments remain on file automatically applicable to prospective loss cost reference filings, and a new reference filing is filed:
 - IF:** the company decides to use the prospective loss costs to revise its rates
 - THEN:** the company must file a *Reference Filing Adoption Form* and *Summary of Supporting Information* including its effective date and indicate whether its loss cost adjustments will apply to future advisory/rating organization's prospective loss cost reference filings.
 - IF:** the company decides not to use revisions and has already initially filed
 - THEN:** the company does not file anything with the insurance division.
- If the company has filed to have its loss cost adjustments remain on file, automatically applicable to subsequent reference filings, and a new reference filing is filed:
 - IF:** the company decides to use the revision of the prospective loss costs and effective date as filed
 - THEN:** the company does not file anything with the insurance division. Rates are the combination of the prospective loss costs and on-file loss cost adjustments and become effective on the effective date of the advisory/rating organization's loss cost reference filing.
 - IF:** the company decides to use the revision of the prospective loss costs as filed but with a different effective date
 - THEN:** the company must notify the insurance division of its effective date before the effective date of the advisory/rating organization's loss cost reference filing.
 - IF:** the company decides to use the revision of the prospective loss costs as filed but wishes to change its loss cost adjustments
 - THEN:** the company must file for approval the *Reference Filing Adoption Form Summary of Supporting Information*.
 - IF:** the company decides not to use the revision of the prospective loss costs
 - THEN:** the company must notify the insurance division before the effective date of the advisory/rating organization's loss cost reference filing.
- If a company has authorized advisory/rating organizations to file on its behalf, and a new filing of rules, relativities and supplementary rating information is filed:
 - IF:** the company decides to use the revision and effective date as filed
 - THEN:** the company does not file anything with the insurance division.
 - IF:** the company decides to use the revisions as filed but with a different effective date
 - THEN:** the company must notify the insurance division of its effective date before the approved advisory/rating organization's effective date.
 - IF:** the company decides to use the revision with modification
 - THEN:** the company must file the modification with the insurance division for approval, specifying the basis for the modification.
 - IF:** the company decides not to use the revision



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THEN: the company must notify the insurance division before the advisory/rating organization's effective date.

WORKERS COMPENSATION FILING LAW

- Advisory Organization Loss Cost Adoption
FILE AND USE. Workers' compensation rate filings that adopt the designated advisory organization loss costs with or without modification, that result in rates that are at or above the designated advisory organization loss costs are subject to the "file and use" laws.
PRIOR APPROVAL. Rate filings that adopt the designated advisory organization loss costs that result in rates that are below the designated advisory organization loss costs are subject to prior approval and must be filed 30 days before the effective date. A filing is considered approved unless it is disapproved by the insurance division within the waiting period or any extension of that period. Upon written application of the company, the insurance division may authorize a filing to become effective before the expiration of the waiting period.
- Rates and Rating Plans other than Advisory Organization Loss Cost Adoption
PRIOR APPROVAL with statutory deemer provisions. Workers' compensation rates and rating plans other than adoption of advisory organization loss costs must be filed **30 days** before the effective date and are subject to prior approval. A filing is considered approved unless it is disapproved by the insurance division within the waiting period or any extension of that period. Upon written application of the company, the insurance division may authorize a filing to become effective before the expiration of the waiting period.

WORKERS COMPENSATION WHAT TO FILE

WORKERS COMPENSATION COMMON AREAS OF NON-COMPLIANCE

- See what to file and common areas of non-compliance sections above

WORKERS COMPENSATION OTHER REQUIREMENTS

- National Council on Compensation Insurance (NCCI) is currently the designated advisory organization for Montana. Montana has a competitive state fund and it is the carrier of last resort. There is no assigned risk mechanism
- Every company shall be a member of the designated workers' compensation advisory organization selected by the insurance division.
- Each company shall record and reports its workers' compensation experience to the designated advisory organization as set forth in the uniform statistical plan.



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- Each company shall adhere to the uniform classification system and uniform experience rating plan that has been filed by the designated advisory organization and approved by the insurance division.
- Each company shall use the rules filed by the designated advisory rating organization.
- Companies may file rating plans with the insurance division that provide for prospective or retrospective premium adjustment based on the insured's expected or actual loss experience.
- Each company shall file with the insurance division all rates, supplementary rate information and any changes and amendments made by it. Advisory/rating organization may not file this information on behalf of the company.
- Companies may adopt by reference, with or without deviation, the prospective loss costs filed by the designated advisory organization or the rates and supplementary rate information filed by another company, but still require supporting information to substantiate such use.
- If a company receives a notice regarding the approval of a new reference filing of rates and rating plans that are limited to prospective loss costs:
 - IF:** The company has an LCM of 1.000 or greater and has filed to have its LCM apply to all future revisions of the loss costs and is **NOT** revising its LCM.
THEN: the company does not need to file anything.
 - IF:** the company has an LCM less than 1.000
THEN: the company must file a *Reference Filing Adoption Form and Summary of Supporting Information*.
 - IF:** the company decides to use the prospective loss costs to revise its rates and revises its LCM.
THEN: the company must file a *Reference Filing Adoption Form and Summary of Supporting Information*.
 - IF:** the company decides not to use prospective low costs.
THEN: the company must file its own rates and supplementary rate information.
- Dividend Plans
The insurance division prohibits unfair discrimination in the payment of dividends. Dividends must be provided for in the company's articles of incorporation, dividends must not be guaranteed in advance, must be declared by the Board of Directors, must be paid out of earned surplus and may not be "recaptured" from the insured.